

EXHIBIT C

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 JENNIFER S. FISCHMAN,

6 Plaintiff,

Index No.

7 -against-

18-CV-08188

8 MITSUBISHI CHEMICAL HOLDINGS AMERICA,
9 INC.; MITSUBISHI CHEMICAL HOLDINGS
10 CORPORATION; NICOLAS OLIVA, in his
11 individual and professional capacities;
12 DONNA COSTA, in her individual and
13 professional capacities; and JOHN DOES
14 1-10, in their individual and
15 professional capacities,
16 Defendants.

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18
19 June 28, 2021

20 10:09 a.m.
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June 28, 2021

10:09 a.m.

Continued videotaped deposition of
JENNIFER FISCHMAN, held at the offices of Gordon
Rees Scully Mansukhani LLP, One Battery Park
Plaza, New York, New York, pursuant to Notice,
before Lynne D. Metz, a Shorthand Reporter and
Notary Public of the State of New York.

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A P P E A R A N C E S:

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DONNA COSTA

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BY: MERCEDES COLWIN, ESQ.

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File # MCHEM-1135398

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3 Attorneys for Defendant MITSUBISHI CHEMICAL
4 HOLDINGS CORPORATION

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6 New York, New York 10022

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11 CLARICK GUERON REISBAUM

12 Attorneys for Defendant DONNA COSTA

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14 New York, New York 10001

15 BY: NICOLE GUERON, ESQ.

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17
18 ALSO PRESENT:

19 Rocco Mercurio - videographer

20 Nicolas Oliva

21 Donna Costa

22 Skyler Stern - intern

23 Adriana Acosta - intern
24
25

1 J. Fischman

2 Comments; correct? It starts at 594 at the very
3 bottom and these are your comments above that
4 typewritten; correct, in terms of it starts "The
5 2015 fiscal year was a good and challenging year."

6 Is that right?

7 A. Yes.

8 Q. Is there any evidence of
9 discrimination related to the criticisms that are
10 set forth in your work --

11 MR. BERMAN: Object to form.

12 Q. -- in this document?

13 A. Could you repeat the question?

14 (Record read.)

15 MR. BERMAN: Object to form.

16 A. Yes.

17 Q. Where is that in the document?

18 A. Well, it is not something that I would
19 have written in the document because this document
20 is submitted to my boss for his review and --

21 Q. Ms. Fischman that's not the question.

22 A. Actually, that's the answer. You
23 asked me to answer the question.

24 Q. Where is it in writing? I am not
25 asking for the reason.

1 J. Fischman

2 Where is it in writing in this
3 document that you felt evidence of discrimination?

4 A. Well actually, there is evidence of
5 retaliation, if you must know. It's in the Needs
6 Improvement on the level of proficiency on page
7 592 which I had never received before and that was
8 in retaliation for comments that I had made to
9 Nick Oliva on or about March 1st when we had a
10 discussion about the dismissal of Amber Todd.

11 Q. So it is your statement under oath
12 that the fact that you received a needs
13 improvement in communication was for retaliatory
14 motive by Mr. Oliva; is that your testimony?

15 A. Yes.

16 Q. And that stems from a conversation
17 that was had regarding Miss Amber Todd?

18 A. Yes.

19 Q. If you could, to the best of your
20 recollection, state for the record under oath what
21 the conversation you had with Mr. Oliva regarding
22 Miss Amber Todd in March of 2016?

23 A. Two things Mercedes. I am a lawyer.
24 You don't need to remind me that I am under oath.
25 So please don't do that.

1 J. Fischman

2 Secondly --

3 Q. It is my deposition Ms. Fischman and I
4 am being very respectful.

5 A. But I find that very disrespectful. I
6 know I am under oath. She just reminded me of it,
7 okay. Under oath I state that when I returned
8 from vacation in early March, I believe it was
9 March 1st, we had a conversation about the
10 termination of Amber Todd, a woman who worked at
11 one of our affiliates for who we supported with
12 legal advice. Dan Todd had previously worked at
13 the company back in the Fall of 2015. Dan Todd
14 left the company and he received a very generous
15 year long severance package. When Amber -- the
16 company was closing down or winding down its
17 operations and when Amber Todd identified that she
18 was ready to leave the company the company said
19 they would not give her a severance package. All
20 of this occurred in early February of 2016.

21 I went on vacation with my family in
22 mid to late February and when I returned Mr. Oliva
23 told me that the company was not going to give
24 Amber a severance package but instead was going to
25 fire her for cause because there was a conflict

1 J. Fischman

2 now that her husband worked for a customer of the
3 company. So I said to Nick that that was
4 inappropriate and that I was not going to paper
5 any record as he had suggested and we got into
6 quite a -- we got into a strongly worded
7 conversation where he was angry with my response
8 and I did not want to do anything that I thought
9 was inappropriate and I told him that I thought it
10 was discrimination against Amber and that they had
11 treated her male husband quite differently and
12 that it was absolutely wrong and I wouldn't
13 support it. He immediately changed the subject,
14 walked out of my office and I was very shaken from
15 that experience.

16 Q. What, if anything, exists in writing
17 that details this conversation that you had with
18 Mr. Oliva?

19 A. On that night I went home and I wrote
20 myself a note on a legal pad and I stuffed it in a
21 draw and hoped to forget about it.

22 Q. Have you produced that?

23 A. Yeah. That was, remember last week
24 when I said there were a bunch of handwritten
25 documents that I thought had been produced. We

1 J. Fischman

2 have now produced everything.

3 MR. BERMAN: I will represent to
4 counsel those were produced.

5 Q. Ms. Fischman, we have been in this
6 controversy for quite a number of years.

7 Why is it that you just produced this
8 document to your counsel and then in turn
9 allegedly produced to us?

10 MR. BERMAN: Object to form.

11 A. I thought I had produced everything
12 and I went back and when I was preparing for this
13 deposition I went back and searched another part
14 of my bedroom office and found a couple of more
15 documents. Not just this, but I also found a
16 notebook that I had kept.

17 Q. You perceive this document as a
18 critically important document to your claim;
19 correct?

20 MR. BERMAN: Object to form.

21 A. Of course.

22 Q. How is it that --

23 A. It is the basis for which I used for
24 the complaint.

25 Q. Ms. Fischman, let me finish.

1 J. Fischman

2 How is it that we are in 2021 and now
3 for the first time you have given this document to
4 your counsel who then gave it to us?

5 MR. BERMAN: Object to form.

6 A. I don't know how to answer that. I
7 found a couple of extra documents that I thought I
8 already produced it a year ago actually.

9 Q. The circumstances regarding Mr. Todd
10 and Miss Todd are very different.

11 Mr. Todd was subject to a reduction in
12 force, was he not?

13 MR. BERMAN: Object to form.

14 MS. COLWIN: What's the objection to
15 the form counsel?

16 MR. BERMAN: You provided a prequel to
17 the question. So that was two questions or
18 one was a statement and one was a question.

19 BY MS. COLWIN:

20 Q. Mr. Todd was subjected to a reduction
21 in force, was he not?

22 A. I think the whole company was subject
23 to --

24 Q. I am not asking you that question. I
25 am asking you a question Ms. Fischman.